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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/620,053

07/20/2000

Yang Cao

129250-000971/US

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CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC

P.O. BOX 1995

VIENNA, VA 22183

EXAMINER

MOORE, IAN N

ART UNIT

PAPER NUMBER

2616

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 09/620,053</p>	<p>Applicant(s) CAO, YANG</p>	
	<p>Examiner IAN N. MOORE</p>	<p>Art Unit 2616</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Ian N. Moore/
Primary Examiner, Art Unit 2616

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding claims 1-10, 12-23,25-31,33-38 and 40-42, applicant argues that "...Chang'412 fails to teach or suggest: (i) the routing of IP traffic of IP traffic based on a ATM service category; (ii) at least one circuit switch and packet switch fabric making up a (iii) hybrid telecommunication switch... examiner does not address whether Chang '757 accomplishes such routing depending on ATM service categories...the combination of Chang '412 and Chang '757 does not disclose or suggest the routing of IP traffic depending on an ATM service category such a combination does not render claims 1 and 12.." in pages 13-19.

In response to applicant's argument, the examiner respectfully disagrees with the argument above.

1) The rejection is based upon a combined system of Chang'412 (US005920412A) and Chang'757 (US006657757B1). One must consider the combined system of Chang'412 and Chang'757 as a whole, rather than individually as incorrectly stated by applicant above. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

2) Chang'412 discloses a hybrid telecommunication switch comprising at least one circuit switch fabric (see FIG. 4, optical network routing apparatus, ONRA 14d) comprising:

at least one circuit switch fabric (see FIG. 4, STM (Synchronous Transfer Mode) ADM 28 which switches/routes circuit switch-able synchronous (i.e. real time) data; see col. 9, lines 16-22);

at least one packet switch fabric (see FIG. 4, ATM (Asynchronous Transfer Mode) ADM 32 which switches/routes cell/packet switch-able asynchronous (i.e. non-real time) data; see col. 9, lines 15-25); and

a controller (see FIG. 4, Type check 24; see col. 11, line 46-50; see col. 12, line 15-22) route traffic (see col. 11, line 1-16; signals/traffic) to the circuit switch fabric or packet switch fabric depending on an ATM service category/type of traffic (see FIG. 5, step 50,52 and 56; note that ATM service category/type are defined as real time or non-real time signals; and thus, when routing according to ATM service type/category one must route by determining whether the service signals are real-time or non-real time signals. Thus, routing to either STM/TDM system or ATM system according to type/category of service as STM real time signals/traffic or ATM real/non-real time signals/traffic; see col. 12, line 9-46; see col. 15, line 25-52).

It is well known in the art that IP traffic can be transported over STM/SONET/SDH, and IP traffic can also be transported over ATM. Chang'757 teaches IP traffic/router 112 is coupled to ATM/SONET system 131 (see FIG. 1, see col. 9, line 1-5).

Thus, it is clear that the combined system of Chang'412 and Chang'757 discloses the claimed invention.

3) In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., what are ATM service category of the IP traffic, or what constitute ATM service category of the IP traffic) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant does not specifically claimed (in claim 1, 12, 28 and 33) what are "ATM service category of the IP traffic", or what constitute "ATM service category of the IP traffic".

Thus, in view of the above Chang'412's type check 24 is configured to route/direct traffic to STM (i.e. circuit switch fabric) or ATM (i.e. packet switch fabric) depending on ATM service category/type of traffic.

Moreover, Chang'412 FIG. 5, step 50 clearly shows determining whether to route the traffic to ATM or STM. Examiner asserts "ATM service categories", in accordance with well establish teaching in art, as "real time signal" and "non-real time signal" services categories (see cited reference below). It is also well establish teaching in art that STM (Synchronous Transfer Mode) or TDM (Time Division Multiplexing) switching primarily switches the real time signal, and ATM (Asynchronous Transfer Mode) switching primarily switches the non-real time signals (see cited reference below). Thus, when determining whether to switch to ATM or STM, it is actually determining signals whether they are real time or non-real time signal, and routing the signal to either STM or ATM accordingly.

Thus, in view of the above, examiner has clearly recited that argued limitation in the final action.